



FmHA AN No. 1355 (1924)

March 6, 1986

SUBJECT: New Requirements Imposed by Court in Nationwide Class Action Suit
FmHA Instruction 1924-B, Section 1924.57.

TO: State Directors

Purpose/Intended Outcome: On March 3, 1986, U.S. District Court, North Dakota issued an order in the Coleman v. Block case which affects FmHA Instruction 1924-B, Section 1924.57(b)(3). It is extremely important that all FmHA field personnel abide by this order; failure to do so may result in contempt of court actions. The intended outcome is to comply with recent court decisions.

Comparison with Previous AN: No previous AN on this subject.

Implementation Responsibility: The actions which must be taken to comply with this order are as follows and are effective immediately:

1. In no case will a Farm Plan be agreed to or signed by FmHA unless a Form FmHA 1962-1 is signed at the same time. In cases where it is determined by the County Supervisor that the borrower's plan is not feasible, the County Supervisor should sign the plan along with Form FmHA 1962-1 and document in the running record that the plan is being signed for the specific purpose of planning for releases.

2. If the County Supervisor and the borrower cannot agree on the planned use of proceeds, the borrower will immediately be given the opportunity to appeal in accordance with FmHA Instruction 1900-B. Cases will no longer be forwarded by the County Supervisor to the District Director for a decision, as provided in FmHA Instruction 1924-B, Section 1924.57(b)(3). The notice to the borrower must identify the items on which the County Supervisor and the borrower cannot agree and must explain why the County Supervisor does not agree with the borrower's planned use of proceeds.

3. While any appeal is pending, FmHA must make releases for family living and farm operating expenses which are basic, crucial or indispensable. In addition, FmHA may make releases for other items on which the borrower and the County Supervisor agree.

4. The hearing (and any review) officers will make a decision on each item in dispute.

Expiration Date: December 31, 1986

Filing Instructions:
Preceding FmHA Instruction
1924-B

1355(1924)

5. After the appeal is concluded, the County Supervisor and borrower will sign a Farm and Home Plan and a Form FmHA 1962-1 which complies with the hearing (or any review) officer's decision. If the borrower refuses, the County Supervisor will give the borrower a copy of the plan and the form and will explain that those documents are considered binding by FmHA. Borrowers who do not abide by those documents will be handled under Section 1962.18 of FmHA Instruction 1962-A.

FmHA Instructions will be revised to incorporate these requirements as soon as possible.



VANCE L. CLARK
Administrator

Sent by Electronic Mail on 03/06/86 at 5:35 pm by DASD/IMPS
The State Director should advise other personnel as appropriate.